



DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Parts 17, 39, 48, 49, 51, 52, 53, 59, 61, 62, and 64

RIN 2900-AP22

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Updating References

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations with updated citations and references to Office of Management and Budget (OMB) authorities for Federal grant programs. OMB has issued final guidance, located in Title 2 of the Code of Federal Regulations (CFR), which streamlines and supersedes requirements previously found in various OMB Circulars. VA has adopted OMB's guidance, and this rule replaces the obsolete OMB references in VA's regulations.

DATES: This final rule is effective [insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Brian McCarthy, Office of Regulatory and Administrative Affairs (10B4), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (202) 461-6345. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) is streamlining the Federal government's guidance on Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards. In a document published in the Federal Register on December 26, 2013 (78 FR 78590), OMB adopted final guidance, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), that supersedes and streamlines requirements from OMB Circulars A-21, A-87, A-110, and A-122 (which have been placed in OMB guidances); Circulars A-89, A-102, and A-133; and the guidance in Circular A-50 on Single Audit Act follow-up. The final guidance is located in title 2 of the Code of Federal Regulations (CFR).

On December 19, 2014, OMB published a joint interim final rule in the Federal Register (79 FR 75871). OMB made technical corrections to the Uniform Guidance, and Federal awarding agencies, including VA, implemented the guidance in their respective chapters of title 2 of the CFR. VA amended title 2 of the CFR to add part 802. Section 802.101 of title 2 CFR now provides, “The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth in 2 CFR part 200 shall apply to the Department of Veterans Affairs.” VA also removed parts 41 and 43 from title 38 CFR. Those parts codified OMB Circulars that were superseded by the Uniform Guidance.

Because of these changes, existing references in VA's regulations to the superseded OMB guidance documents and to parts 41 and 43 are obsolete. Accordingly, we are amending various VA regulations located in 38 CFR parts

17, 39, 48, 51, 52, 53, 59, 61, 62, and 64 to replace the obsolete references with references to the current authority. For the same reason, we are removing part 49 of title 38 CFR, which codified OMB Circular A-110, and amending VA's regulations referencing part 49 to reference 2 CFR part 200 instead.

#### Administrative Procedure Act

The Secretary of Veterans Affairs finds there is good cause under the provisions of 5 U.S.C. 553(b)(B) and (d)(3) to publish this rule without prior opportunity for public comment and with an immediate effective date. This rule does not amend the substantive content of the regulations cited. We are merely making technical revisions to replace obsolete OMB references and citations in existing VA regulations because 2 CFR part 200, which VA is adopting, supersedes OMB's previous guidance. We are also deleting existing references to parts 41 and 43 of 38 CFR, which were removed from 38 CFR by the interim final rule published on December 19, 2014 (79 FR 75871), and removing part 49 of title 38 CFR and existing references to part 49, which codified OMB guidance that was superseded by the Uniform Guidance. Because these changes are merely technical, advance notice and public comment are unnecessary and we find good cause to make these necessary changes effective immediately upon publication.

## Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action,” which requires review by OMB, unless OMB waives such review, as “any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.”

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA’s impact

analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at <http://www.va.gov/orpm/>, by following the link for "VA Regulations Published From FY 2004 Through Fiscal Year to Date."

#### Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601-612) because the amendments are merely technical in nature. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the final regulatory flexibility analysis requirements of section 604.

#### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

### Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521).

### Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.005, Grants to States for Construction of State Home Facilities; 64.024, VA Homeless Providers Grant and Per Diem Program; 64.026, Veterans State Adult Day Health Care; 64.033, VA Supportive Services for Veteran Families Program; 64.034, VA Assistance to United States Paralympic Integrated Adaptive Sports Program; 64.037, VA U.S. Paralympics Monthly Assistance Allowance Program; 64.038, Grants for the Rural Veterans Coordination Pilot; 64.100, Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces; 64.201, National Cemeteries; and 64.203, State Cemetery Grants.

### Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Nabors II, Chief of Staff, Department of Veterans Affairs, approved this document on July 7, 2015, for publication.

## List of Subjects

### 38 CFR Part 17

Administrative practice and procedure, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Nursing homes, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

### 38 CFR Part 39

Cemeteries, Grant programs-veterans, Veterans.

### 38 CFR Part 48

Administrative practice and procedure, Drug abuse, Grant programs, Loan programs, Reporting and recordkeeping requirements.

### 38 CFR Part 49

Uniform Administrative Requirements for Grants and Agreements.

### 38 CFR Parts 51 and 52

Administrative practice and procedure, Day care, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Nursing homes, Reporting and recordkeeping requirements, Veterans.

### 38 CFR Part 53

Administrative practice and procedure, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Nursing homes, Reporting and recordkeeping requirements, Scholarships and fellowships, Veterans.

### 38 CFR Part 59

Administrative practice and procedure, Day care, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Nursing homes, Reporting and recordkeeping requirements, Veterans.

### 38 CFR Part 61

Administrative practice and procedure, Alcohol abuse, Alcoholism, Drug abuse, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Homeless, Mental health programs, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

### 38 CFR Part 62

Administrative practice and procedure, Claims, Grant programs—health, Grant programs—social services, Grant programs—transportation, Grant programs—veterans, Grants—housing and community development, Health care, Homeless, Housing, Housing assistance payments, Indian—lands, Individuals with disabilities, Low and moderate income housing, Manpower training program, Medicare, Medicaid, Public assistance programs, Public housing, Relocation assistance, Rent subsidies, Reporting and recordkeeping requirements, Rural areas, Social security, Supplemental security income (SSI), Travel and transportation expenses, Unemployment compensation, Veterans.

### 38 CFR Part 64

Administrative practice and procedure, Disability benefits, Claims, Grant programs—health, Grant programs—veterans, Health care, Health records, Reporting and recordkeeping requirements, Veterans.



Dated: July 13, 2015

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William F. Russo  
Acting Director  
Office of Regulation Policy & Management,  
Office of the General Counsel,  
Department of Veterans Affairs.

For the reasons set forth in the preamble, VA amends 38 CFR parts 17, 39, 48, 49, 51, 52, 53, 59, 61, 62, and 64 as follows:

## PART 17 – MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

### § 17.200 [Amended]

2. Amend § 17.200 by removing “Single Audit Act of 1984 (part 41 of this chapter).” and adding in its place “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards under 2 CFR part 200.”.

3. Amend § 17.715 by revising paragraph (b) to read as follows:

#### §17.715 Grant Agreements.

\* \* \* \* \*

(b) Additional requirements. Grantees and identified subrecipients are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards under 2 CFR part 200, and subject to 2 CFR parts 25 and 170, if applicable.

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PART 39 – AID FOR THE ESTABLISHMENT, EXPANSION, AND  
IMPROVEMENT, OR OPERATION AND MAINTENANCE OF VETERANS  
CEMETERIES

Subpart B – Establishment, Expansion, and Improvement Projects

4. The authority citation for part 39 continues to read as follows:

25 U.S.C. 450b(1); 38 U.S.C. 101, 501, 2408, 2411, 3765.

§ 39.31 [Amended]

5. Amend § 39.31(c)(6) by removing “parts 180 and 801 and 38 CFR part 43” and adding in its place “parts 180, 200, and 801”.

§ 39.32 [Amended]

6. Amend § 39.32 introductory text by removing “the provisions of Office of Management and Budget (OMB) Circular No. A-87.” and removing “OMB Circular No. A-102, Revised.” and adding in each place “2 CFR part 200.”.

Subpart C – Operation and Maintenance Projects

§ 39.81 [Amended]

7. Amend § 39.81(d)(2) by removing “parts 180 and 801 and 38 CFR part 43” and adding in its place “parts 180, 200, and 801”.

§ 39.82 [Amended]

8. Amend § 39.82:

a. In paragraph (a)(2), by removing “the provisions of OMB Circular No. A-87” and adding in its place “2 CFR part 200”.

b. In paragraph (a)(3), by removing “OMB Circular No. A-102, Revised.” and adding in its place “2 CFR part 200.”.

#### Subpart D – Grant Recipient Responsibilities, Inspections, and Reports Following Project Completion

##### § 39.122 [Amended]

9. Amend § 39.122(a) by removing “(see Part 41 of this chapter)”.

#### PART 48 – GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

##### Subpart F – Definitions

10. The authority citation for part 48 continues to read as follows:

41 U.S.C. 701, et seq.; 38 U.S.C 501

##### § 48.605 [Amended]

11. Amend § 48.605(a)(2) by removing “the Governmentwide rule 38 CFR part 43 that implements OMB Circular A-102 (for availability, see 5 CFR 1310.3) and specifies uniform administrative requirements.” and adding in its place “2 CFR part 200.”.

PART 49 – [REMOVED]

12. Under the authority of 38 U.S.C. 501, remove part 49.

PART 51 – PER DIEM FOR NURSING HOME CARE OF VETERANS IN STATE HOMES

Subpart C – Per Diem Payments

13. The authority citation for part 51 continues to read as follows:

Authority: 38 U.S.C. 101, 501, 1710, 1720, 1741-1743, and as stated in specific sections.

§ 51.43 [Amended]

14. Amend § 51.43(e) by removing “the Office of Management and Budget (OMB) Circular number A-87, dated May 4, 1995, “Cost Principles for State, Local, and Indian Tribal Governments.”” and adding in its place “2 CFR part 200.”.

PART 52 – PER DIEM FOR ADULT DAY HEALTH CARE OF VETERANS IN STATE HOMES

Subpart C – Per Diem Payments

15. The authority citation for part 52 continues to read as follows:

Authority: 38 U.S.C. 101, 501, 1741-1743, unless otherwise noted.

§ 52.40 [Amended]

16. Amend § 52.40(b) by removing “the Office of Management and Budget (OMB) Circular number A-87, dated May 4, 1995, “Cost Principles for State, Local, and Indian Tribal Governments” (OMB Circulars are available at the addresses in 5 CFR 1310.3).” and adding in its place “2 CFR part 200.”.

#### PART 53 – PAYMENTS TO STATES FOR PROGRAMS TO PROMOTE THE HIRING AND RETENTION OF NURSES AT STATE VETERANS HOMES

17. The authority citation for part 53 continues to read as follows:

Authority: 38 U.S.C. 101, 501, 1744.

#### § 53.31 [Amended]

18. Amend § 53.31(b) by removing “Single Audit Act of 1984 (see 38 CFR part 41)” and adding in its place “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards under 2 CFR part 200”.

#### PART 59 – GRANTS TO STATES FOR CONSTRUCTION OR ACQUISITION OF STATE HOMES

19. The authority citation for part 59 continues to read as follows:

Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131-8137.

#### § 59.124 [Amended]

20. Amend § 59.124(a) by removing “Single Audit Act of 1984 (see part 41 of this chapter)” and adding in its place “Uniform Administrative

Requirements, Cost Principles, and Audit Requirements for Federal Awards under 2 CFR part 200”.

## PART 61 – VA HOMELESS PROVIDERS GRANT AND PER DIEM PROGRAM

21. The authority citation for part 61 continues to read as follows:

Authority: 38 U.S.C. 501, 2001, 2002, 2011, 2012, 2061, 2064.

### Subpart B – Capital Grants

#### § 61.16 [Amended]

22. Amend § 61.16(a) by removing “OMB Circular A-122 as codified at 2 CFR part 230.” and adding in its place “the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards under 2 CFR part 200.”.

### Subpart E – Technical Assistance Grants

23. Amend § 61.50 by revising paragraph (b)(3)(i) to read as follows:

#### § 61.50 Technical assistance grants- general.

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(i) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards under 2 CFR part 200;

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## Subpart F – Awards, Monitoring, and Enforcement of Agreements

### § 61.61 [Amended]

24. Amend § 61.61(a) by removing “VA common grant rules at 38 CFR parts 43 and 49 and the OMB Circulars, including those cited in § 61.66.” and adding in its place “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards under 2 CFR part 200.”.

25. Revise § 61.66 to read as follows:

### § 61.66 Financial management.

(a) All recipients must comply with applicable requirements of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards under 2 CFR part 200.

(b) All entities receiving assistance under this part must use a financial management system that follows generally accepted accounting principles and meets the requirements set forth under 2 CFR part 200. All recipients must implement the requirements of 2 CFR part 200 when determining costs reimbursable under all awards issued under this part.

(Authority: 38 U.S.C. 501)

### § 61.67 [Amended]

26. Amend § 61.67:

a. In paragraph (c) by removing “38 CFR 49.32” and adding in its place



“2 CFR part 200”.

b. In paragraph (f) by removing “38 CFR 49.34” and adding in its place “2 CFR part 200”.

## PART 62 – SUPPORTIVE SERVICES FOR VETERANS FAMILIES PROGRAM

27. The authority citation for part 62 continues to read as follows:

Authority: 38 U.S.C. 501, 2044, and as noted in specific sections.

28. Amend § 62.70:

a. By revising paragraph (a).

b. In paragraph (b) by removing “OMB Circular A-110, Subpart C, Section 21 (codified at 2 CFR 215.21) and 38 CFR 49.21.” and adding in its place “2 CFR part 200.”.

c. In paragraph (c) by removing “OMB Circular A-122, Cost Principles for Non-Profit Organizations, codified at 2 CFR part 235.” and adding in its place “2 CFR part 200.”.

The revision reads as follows:

### § 62.70 Financial management and administrative costs.

(a) Grantees must comply with applicable requirements of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards under 2 CFR part 200.

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PART 64 – GRANTS FOR THE RURAL VETERANS COORDINATION PILOT  
(RVCP)

29. The authority citation for part 64 continues to read as follows:

Authority: 38 U.S.C. 501, 523 note.

30. Amend § 64.14 by revising paragraph (b)(2) to read as follows:

§ 64.14 RVCP grant agreement.

\* \* \* \* \*

(b) \* \* \*

(2) Abide by the Uniform Administrative Requirements, Cost Principles,  
and Audit Requirements for Federal Awards under 2 CFR part 200, and 2 CFR  
parts 25 and 170, if applicable.

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[FR Doc. 2015-17416 Filed: 7/21/2015 08:45 am; Publication Date: 7/22/2015]